

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

DAVE CARLTON, <i>et al.</i> ,	§	
Individually and on behalf of all others	§	
similarly situated,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	Civil Action No. 4:15-cv-00012
	§	
FRED CANNON, <i>et al.</i> ,	§	
	§	
Defendants.	§	
	§	

**DEFENDANT FRED CANNON’S MOTION FOR EXTENSION OF TIME
TO ANSWER THIRD AMENDED COMPLAINT**

Defendant Fred Cannon files this motion to extend the deadline to file an Answer to the Third Amended Complaint until June 8, 2016. In support of this motion, Mr. Cannon states as follows:

1. This is a consolidated class action under the federal securities laws. On February 13, 2015, after being granted leave to amend three times, Plaintiffs filed a 243-paragraph, 120-page Third Amended Class Action complaint. (Dkt. 86.)
2. On March 27, 2015, Defendants filed their Motions to Dismiss. (Dkt. 92-94.)
3. On June 17, 2015, the Court held oral argument on Defendants’ Motions to Dismiss. (Dkt. 102.)
4. On May 4, 2016, the Court issued a Memorandum and Opinion on Defendants’ Motions to Dismiss. (Dkt. 113.) The Court dismissed Plaintiffs’ claims against

Defendants John Karnes and Vinod Khosla with prejudice. (*Id.* at 93.) The Court denied Mr. Cannon's Motion to Dismiss, but held that "some of [Defendant] Cannon's statements cannot be the basis for liability." (*Id.* at 93.)

5. Under Federal Rule 12(a)(4)(A), Mr. Cannon has 14 days to file an answer to the Third Amended Complaint.
6. On May 9, 2016, Mr. Cannon's counsel asked that Plaintiffs' counsel agree to extend the deadline to answer the complaint by three weeks, until June 8, 2016.
7. On May 10, 2016, Plaintiffs' counsel refused this request and, instead, stated that Plaintiffs would agree to extend the deadline only by one week, until May 25, 2016.
8. In order adequately to address the allegations asserted in the Third Amended Complaint in light of the Court's Memorandum and Opinion on Defendants' Motions to Dismiss, Mr. Cannon requests a three-week extension of time to file an Answer.
9. For the aforementioned reasons, Mr. Cannon respectfully request that the deadline to file his Answer be extended to and including June 8, 2016. This extension will not impact the Status Conference scheduled for May 25, 2016 or any other deadline in this litigation.

Respectfully submitted,

Defendant Fred Cannon

By his Attorneys,

Of Counsel:

(admitted *pro hac vice*)

Michael G. Bongiorno

Peter J. Kolovos

Peter A. Spaeth

Alexandra C. Boudreau

WILMER CUTLER PICKERING

HALE AND DORR LLP

60 State Street

Boston, Massachusetts 02109

Telephone: (617) 526-6000

Fax: (617) 526.5000

michael.bongiorno@wilmerhale.com

/s/ David D. Sterling

David D. Sterling

Attorney-In-Charge

Texas Bar No. 19170000

Federal I.D. No. 07079

BAKER BOTTS LLP

One Shell Plaza, 910 Louisiana Street

Houston, Texas 77002

Telephone: (713) 229-1946

Fax: (713) 229-7946

david.sterling@bakerbotts.com

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document has been filed pursuant to the electronic filing requirements of the United States District Court for the Southern District of Texas on this the 11th day of May 2016, which provides for service on counsel of record in accordance with the electronic filing protocols in place.

s/ David D. Sterling
David D. Sterling

CERTIFICATE OF CONFERENCE PURSUANT TO LOCAL RULE 7.1(d)

I hereby certify that I, counsel for Mr. Cannon, conferred with Adam Apton, counsel for Plaintiffs, via email and phone on May 10, 2016 regarding extending the deadline to answer the complaint by three weeks, until June 8, 2016. Plaintiffs' counsel was only willing to extend the deadline by one week.

/s/ *Peter Kolovos*

Peter Kolovos